

Davis, et al. v. Mountaire Farms, Inc., et al.  
Douglas Lynch

0001

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UNITED STATES DISTRICT COURT

2

FOR THE DISTRICT OF DELAWARE

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WILLIE DAVIS JR., et al.,)

) No. 04-CV-414

5

Plaintiffs, )

)

6

-vs-

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MOUNTAIRE FARMS, INC., )

et al., )

8

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Defendants. )

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Videotaped deposition of DOUGLAS LYNCH  
taken pursuant to notice at the Holiday Inn  
Express, 210 N. Dual Highway, Route 13, Seaford,  
Delaware, beginning at 10:20 a.m. on July 23,  
2008, before Julianne LaBadia, Registered  
Diplomate Reporter and Notary Public.

12

APPEARANCES:

13

JEFFREY K. MARTIN, ESQ.

14

MARTIN & WILSON, P.A.

15

1508 Pennsylvania Ave.

Wilmington, Delaware 19806

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For the Plaintiffs

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ERIC HEMMENDINGER, ESQ.

18

SHAW & ROSENTHAL, LLP

19

20 S. Charles Street - 11th Floor

Baltimore, Maryland 21201

20

For the Defendants

21

ALSO PRESENT: Roy Walters

Nathaniel Briddell

22

Cher Vink

23

WILCOX & FETZER

1330 King Street - Wilmington, Delaware 19801

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(302) 655-0477

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1 VIDEOGRAPHER: This is the  
2 videotaped deposition of Douglas Lynch, taken by  
3 the defendant in the matter of Davis, et al.,  
4 versus Mountaire Farms, Incorporated, civil  
5 action number 04-414, held at the Holiday Inn,  
6 210 Dual Highway, Route 13, Seaford, Delaware, on  
7 July 23, 2008, at approximately 10:20 a.m.

8 The court reporter is Juli LaBadia,  
9 from the firm of Wilcox & Fetzer. My name is  
10 Randy Draper, a video specialist from Discovery  
11 Video Services, Incorporated, in association with  
12 Wilcox & Fetzer.

13 Counsel will now introduce  
14 themselves, and the reporter will swear in the  
15 witness.

16 MR. MARTIN: Good morning, my name  
17 is Jeff Martin, and I represent the plaintiffs in  
18 this matter, Willie Davis, Jr., Nathaniel  
19 Briddell, Joseph Garrison, Larry E. Gibbs and Roy  
20 H. Walers.

21 MR. HEMMENDINGER: My name is Eric  
22 Hemmendinger, and I represent the defendant  
23 Mountaire Farms.

24 DOUGLAS LYNCH

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1 The deponent herein, having first been  
2 duly sworn on oath, was examined and  
3 testified as follows:

4 DIRECT EXAMINATION

5 BY MR. HEMMENDINGER:

6 Q. Could you state your full name for the  
7 record, please.

8 A. William Douglas Lynch.

9 Q. And where are you employed?

10 A. Mountaire Farms of Delmarva.

11 Q. And where is that located?

12 A. Selbyville, Delaware.

13 Q. What is your job title?

14 A. I'm the live hauling manager.

15 Q. How long have you held that position?

16 A. 20 years.

17 Q. When were you hired?

18 A. June, 1988.

19 Q. Could you give us a brief description of  
20 your job duties.

21 A. Yes. I'm the manager of the live hauling  
22 department, and basically, just manage the  
23 department. Everything it entails.

24 Q. What is the function of the live haul

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1 department?

2 A. Basically what we do is we deliver all of  
3 the live product to the processing plant for  
4 processing, seven crews.

5 Q. By live product, do you mean chickens?

6 A. Yes. Chickens.

7 Q. And where do you get the chickens from?

8 A. At the farms. We have about 300 contract  
9 farms that we go to.

10 Q. And what is the job classification of the  
11 employees who go to the farms and collect the  
12 chickens?

13 A. Crews, crew leaders. Crew leader that has  
14 seven, a seven-crew member. Seven-member crew.

15 Q. Are they sometimes called chicken  
16 catchers?

17 A. Chicken catchers.

18 Q. And the supervisors of the chicken  
19 catchers are known as what?

20 A. Crew leaders.

21 Q. Are you familiar with Joe Garrison?

22 A. Yes.

23 Q. What is his job title?

24 A. Well, he was a crew leader. He is no

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1 longer employed.  
2 Q. And Roy Walters?  
3 A. Crew leader.  
4 Q. Larry Gibbs?  
5 A. Crew leader.  
6 Q. Nathaniel Briddell?  
7 A. Crew leader.  
8 Q. Is he still a crew leader?  
9 A. No.  
10 Q. And Willie Davis.  
11 A. Past crew leader.  
12 Q. To whom do the crew leaders report  
13 directly?  
14 A. Report directly to the assistant live haul  
15 manager, which is David Nuse.  
16 Q. And to whom does Mr. Nuse report?  
17 A. To me.  
18 Q. Is there any other employee in the live  
19 haul office?  
20 A. Yes.  
21 Q. Who is that?  
22 A. We have an administrative assistant.  
23 Q. And who is the current administrative  
24 assistant?

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1 A. Megan Bunting.

2 Q. How long has she been there?

3 A. Two weeks.

4 Q. And who was the prior administrative  
5 assistant?

6 A. Susie McCauley.

7 Q. How long was she there?

8 A. 13 years.

9 Q. Could you give us a brief overview of the  
10 job responsibilities of the crew leaders.

11 A. Yeah. Basically, the crew leader, he has  
12 a seven and crew member -- member crew, and he's  
13 responsible for maintaining that crew. And he  
14 takes the crew to the farm, and they actually go  
15 to -- in the chicken house and gather the  
16 chickens and deliver the product to the  
17 processing plant.

18 Q. How much turnover is there on the chicken  
19 catcher crews?

20 A. There's about 30, 30 members per year.

21 Q. When there is a vacancy in a chicken  
22 catcher crew, what is the process that the crew  
23 leader goes through to fill that vacancy?

24 A. Well, he's -- he recruits a new member

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1 from many different sources. Actually, sometimes  
2 comes from -- one of his crew members may have a  
3 friend or a relative that's looking for a job, or  
4 another crew leader from another company.  
5 Somewhere, he recruits another person, and sends  
6 those people in for processing.

7 Q. And can you describe what that -- what you  
8 mean by that?

9 A. As far as what? The processing?

10 Q. Yes.

11 A. Well, again, he inter -- recruits the  
12 person. Does some interview. Then he sends that  
13 person in to the office, to the administrative  
14 assistant typically. And there's a form that we  
15 have to fill out to send to human resources,  
16 basically telling human resources that we've made  
17 a job offer. And we want to further process this  
18 potential employee.

19 Q. I'd like you to look at what's in front of  
20 you as Lynch Exhibit 1.

21 MR. MARTIN: Objection.

22 A. I don't see Exhibit 1. 6?

23 Q. I'm sorry. My mistake. It's Exhibit 6.

24 A. Okay.

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1 Q. Is there a standard, is there a standard  
2 form which is used to -- by the live haul office  
3 to refer an applicant to the personnel -- to the  
4 HR department?

5 A. Yes.

6 Q. And who --

7 A. That's this form.

8 Q. Is that Exhibit 6?

9 A. That's Exhibit 6.

10 Q. And I'd like you to look at Exhibit 7.

11 A. Okay.

12 Q. Is that an -- what is that?

13 A. That's the same form. It's actually  
14 titled live haul authorization form. Which  
15 again, is a form that goes to human resources  
16 that says that the crew leader has made a job  
17 offer to this potential employee, and that we  
18 would like to continue the hiring process.

19 Q. Now, who is authorized to sign off on the  
20 live haul catcher authorization form?

21 A. Typically, it's -- it would be myself,  
22 David Nuse, Susie McCauley, the administrative  
23 assistant, any one of those people.

24 Q. And to sign off, before one of those



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1 persons sign off on that form, do they interview  
2 the applicant?

3 A. No.

4 Q. Do they make any decision concerning the  
5 applicant?

6 A. No.

7 Q. Who makes the decision as to whether or  
8 not the applicant should be sent to the HR  
9 department for further processing?

10 A. Crew leader.

11 Q. After the live haul catcher authorization  
12 form is signed, what happens to the applicant  
13 for -- for employment?

14 A. Well, he's sent to human resources with  
15 his application. And they'll -- they'll continue  
16 the process of hiring, which is typically  
17 checking IDs, make sure the person is who he says  
18 he is. There's also a TB testing, pre-employment  
19 drug testing.

20 Q. Does the HR department interview the  
21 applicant?

22 A. No.

23 Q. Do they make any selection decision  
24 concerning the applicant, other than the

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1 screening that you mentioned?

2 A. No.

3 Q. If the applicant passes all the -- the  
4 medical tests, the drug tests and the TB test,  
5 what happens next?

6 A. Well, he would be -- he would be hired.

7 Q. Does it ever come -- happen that the live  
8 haul department gets a walk-in applicant?  
9 Somebody who's not been sent in by a crew leader?

10 A. Yes.

11 Q. What happens when that occurs?

12 A. Well, if an individual comes in or is  
13 referred into our office, the first question I'll  
14 ask the -- the individual is, did one of our crew  
15 leaders send you? Have you had contact with one  
16 of our crew leaders? And if, in fact, they say  
17 yes, then I'll contact the crew leader to verify  
18 that they have talked with this individual and  
19 they have sent this individual in for processing.

20 Q. And if they say no?

21 A. If they say no, then I'll tell them that,  
22 you know, I'm not aware of any positions that we  
23 have available. That I'll talk with our crew  
24 leaders. If we do, in fact, have a position

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1 available, then I'll have one of those people  
2 contact you, the potential employee.

3 Q. Has it ever come about that the company  
4 has hired a -- a complete crew in one fell swoop?

5 A. Yes.

6 Q. And in the last -- since 2000, how many  
7 times has that occurred, to your knowledge?

8 A. Probably four times.

9 Q. And what would be the reason for hiring a  
10 crew in a package?

11 A. Well, the existing crew leader has, you  
12 know, has terminated his employment, for whatever  
13 reason, retirement, or some other reason. And  
14 that's just the process. When we hire a crew, I  
15 hire the crew leader, and the crew leader is  
16 responsible for bringing the crew.

17 Q. Do you, when you hire a crew leader, do  
18 you interview the crew members?

19 A. No.

20 Q. Now, let's say that you've got in this  
21 crew and it's working on a farm. If there's some  
22 problem with an employee's performance that  
23 requires disciplinary action, how does that work?

24 A. That's under -- that's under the crew

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1 leader, again. He has -- he takes care of  
2 discipline problems with his crew.

3 Q. And what -- what kind of disciplinary  
4 actions can he take?

5 A. Well, he can give oral warnings, written  
6 warnings, all the way up to termination. There's  
7 a procedure.

8 Q. What is that procedure?

9 A. Well, that procedure is progressive  
10 discipline. Oral warnings, a couple of written  
11 warnings, final warning, and it can, like I say,  
12 lead to termination.

13 Q. Does a crew leader have to obtain any  
14 approval from any higher-up in order to impose  
15 any of those forms of disciplinary action?

16 A. He doesn't have to.

17 Q. Are there any promotions that are  
18 available to members of a kitchen -- chicken  
19 catcher crew?

20 A. Yes.

21 Q. What promotion would that be?

22 A. Well, typically, it would be -- a catcher  
23 would be promoted to a forklift driver. We would  
24 consider that a promotion. It's more money.

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1 It's -- a little better job.

2 Q. When that, when there's a vacancy in a  
3 forklift driver position, who selects the  
4 employee to be promoted?

5 A. It's usually the crew leader. There's  
6 usually some cross-training done prior to that.

7 Q. And who selects the employee for the  
8 cross-training?

9 A. It would be the crew leader.

10 Q. Does it ever happen that crew members,  
11 chicken catchers, are transferred from one crew  
12 to another?

13 A. Yes.

14 Q. And when that occurs, who is involved in  
15 making that decision?

16 A. It would mostly be the crew leaders  
17 themselves. They would talk between themselves,  
18 and trade -- trade back and forth, if needed.

19 Q. I'd like you to look at what's been  
20 previously marked as Lynch Exhibit 10.

21 A. Okay.

22 Q. And is that a two-page document?

23 A. Yes, it is.

24 Q. And can you tell me what the first page

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1 is.

2 A. Exhibit 10, the first page is -- it's a  
3 copy of Roy Walters' time sheet, dated December  
4 30th, 2000.

5 Q. And what is the second sheet?

6 A. That would be Roy's time -- Roy Walters'  
7 time sheet, dated June 7th, 2008.

8 Q. Now, and does this list the number -- the  
9 names of the chicken catchers that were in his  
10 crew on those dates?

11 A. Do they match?

12 Q. No. Does it list them?

13 A. Yes, it does list them, yes.

14 Q. So, I'd like you to look at the 2000 list.

15 A. Okay.

16 Q. And go down the names of the employees.

17 A. Uh-huh.

18 Q. And the first name I see is Walter Brown.

19 A. Yes.

20 Q. Where -- what is the current status of  
21 Mr. Brown?

22 A. Walter Brown is still a forklift driver.  
23 Not with Roy's crew. Actually he works with  
24 Larry Gibbs' crew currently.

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1 Q. And the next name is Norman Manuel.  
2 What's his status?  
3 A. No longer employed.  
4 Q. Charles McCray is the next name.  
5 A. No longer employed.  
6 Q. Russell McCray?  
7 A. No longer employed.  
8 Q. Sylvester Mitchell?  
9 A. No longer employed. Retired.  
10 Q. Russell West.  
11 A. Russell is still employed with Roy's crew.  
12 Q. Calvin Drummond.  
13 A. No longer employed.  
14 Q. Steven Abney.  
15 A. No longer employed.  
16 Q. Calvin Walker.  
17 A. Calvin Walker is currently employed with  
18 Larry Gibbs' crew.  
19 Q. Thomas Major.  
20 A. No longer employed.  
21 Q. And William Young.  
22 A. No longer employed.  
23 Q. Now, in each case where somebody is no  
24 longer employed, would that have resulted in a

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1 vacancy that Roy would have to fill?

2 A. Yes.

3 Q. So, if you look at the next page of this  
4 exhibit, which is for the -- it's a time sheet  
5 for 2008 --

6 A. Yes.

7 Q. -- how many of the people on the 2008 list  
8 were on the 2000 list?

9 A. Russell West -- just Russell West.

10 Q. And who selected all the others?

11 A. That would have been the crew leader.  
12 Roy. At some point in time.

13 Q. Now, I'd like you to look at Exhibit 11,  
14 please.

15 A. Yes. I have it.

16 Q. And what is the first page of this?

17 A. The first page is a weekly time sheet of  
18 Larry Gibbs, dated December 30th, 2000.

19 Q. And what is the second page of this?

20 A. The second sheet is a weekly time sheet  
21 for Larry Gibbs dated June 7th, '08.

22 Q. Now, if you go to the first page, I want  
23 to do the same thing we did before.

24 A. Okay.



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1 Q. The first name is Leonard Ayers. What's  
2 his current status?  
3 A. Still employed with Larry's crew.  
4 Q. Danny Daniels.  
5 A. No longer employed.  
6 Q. Donald Gibbs.  
7 A. Still employed by Larry's crew.  
8 Q. James Gibbs.  
9 A. Still employed.  
10 Q. Herman Jernigan.  
11 A. Still employed.  
12 Q. Brantley Lewis.  
13 A. No longer employed.  
14 Q. Do you know why he was no longer employed?  
15 A. Yes. He was terminated.  
16 Q. Ron Tingle.  
17 A. Ron Tingle's still -- still employed with  
18 Larry -- with Roy's crew, actually, I believe.  
19 Yes. With Roy's crew.  
20 Q. If you look back at Exhibit 10, Roy's  
21 crew, we can see Mr. Tingle on that, correct?  
22 A. Yes.  
23 Q. Patrick Brannon -- Bratton.  
24 A. No longer employed. He was also

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1 terminated.

2 Q. Eugene Beaty?

3 A. No longer employed.

4 Q. Jose Turlington.

5 A. No longer employed.

6 Q. And Joe Morris.

7 A. He's still employed. Actually, he's a  
8 truck driver.

9 Q. Okay. Was -- do you know why Turlington  
10 was terminated?

11 A. No. I'm not sure.

12 Q. Okay. Do you know why Bratton was  
13 terminated?

14 A. Yes.

15 Q. Why was he terminated?

16 A. Violation of company policy.

17 Q. What was he doing?

18 A. Fighting.

19 Q. And who was he fighting with?

20 A. Brantley Lewis.

21 Q. And what happened to Mr. Lewis?

22 A. He was also termed.

23 Q. So, if you look to the second page of  
24 Exhibit 11, how many of these people were

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1 selected by Larry Gibbs since 2000?

2 A. Since 2000?

3 Q. Since the first piece of paper.

4 A. Yes. It looks like four or five.

5 Q. Well, let's go through it. Do it by name.

6 A. Okay. Leonard Ayers was -- that's -- he  
7 was with him in 2000. Donald Gibbs has been with

8 Larry for some time. James Gibbs is -- was  
9 there. Herman Jernigan has been with the crew.

10 Arthur Belfield would be a new addition since

11 2000. Valentino Nocks would also be a new

12 addition to the crew.

13 Q. Right.

14 A. James Drummond is a new addition to the  
15 crew. And Calvin Walker is a new addition.

16 Q. What about Walt Brown at the top?

17 A. Walt Brown also is a new addition to the  
18 crew, that's a forklift driver.

19 Q. And did you mention Peter Major?

20 A. And Pete Major.

21 Q. Right in the middle.

22 A. Yes.

23 Q. Is he a new addition?

24 A. To that crew, yes.

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0020

1 Q. Now, of the -- the plaintiffs in this  
2 case, were any -- were any of them crews that  
3 were hired as a complete crew? You know, all at  
4 one time?

5 A. Yes.

6 Q. Who was that?

7 A. Larry Gibbs.

8 Q. And do you know when that was?

9 A. Not exactly. I don't know the date. More  
10 than ten years ago.

11 Q. I want to show you one other exhibit. If  
12 you look at what's been numbered as Number 29.

13 A. Okay.

14 Q. Do you recognize this document?

15 A. Yes.

16 Q. What is this document?

17 A. It's a crew leader job analysis. It's an  
18 analysis of a crew leader's responsibilities.

19 Q. And did you play a part in preparing this  
20 document?

21 A. Yes.

22 Q. And is it an accurate list of what the --  
23 well, I don't want to put words in your mouth.  
24 What is it?

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1           A. It's as complete accurate list as we could  
2 come up with, of the jobs that crew -- crew  
3 leaders perform.

4           MR. HEMMENDINGER: Can we go off the  
5 record for a second?

6           VIDEOGRAPHER: Going off the record  
7 at approximately 10:44 a.m.

8           (Brief discussion off the record)

9           (Following off the video record):

10          MR. MARTIN: We've had a brief  
11 discussion while we're off the video record. I  
12 interposed an objection to the first exhibit,  
13 because I have shown it to my clients for the  
14 first time today, and they have never seen this  
15 document.

16          So, I just want to make sure that my  
17 objection has been preserved. For that matter,  
18 the second exhibit was never seen by my clients,  
19 as well. So, I just want to make the objections,  
20 and we'll deal with them either at the pretrial  
21 on Monday, or while we're at trial.

22          MR. HEMMENDINGER: Well, I  
23 suppose -- while we're making a record, I'm going  
24 to offer all the exhibits that have been used in

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0022

1 the deposition, and that would be Lynch Number --

2 MR. MARTIN: Do you want to offer  
3 them as Lynch or Defendant's?

4 MR. HEMMENDINGER: Defendant's 6, 7,  
5 11, 10, and 29.

6 MR. MARTIN: So when we go back on,  
7 I'll just note an objection, without going  
8 into --

9 MR. HEMMENDINGER: Well, we're not  
10 on the video record right now. We're on the  
11 written record. Why don't you just note it now  
12 and go on?

13 MR. MARTIN: Okay. Well, I will  
14 make that objection to the first two items. And  
15 then we will put that before the Court at the  
16 appropriate time.

17 MR. HEMMENDINGER: Okay.

18 MR. MARTIN: While we're off the  
19 video, I think it would work better to do this in  
20 open court, so the jury can see, you know,  
21 your -- not just your motion, but the response to  
22 the motion. You know, if you just make the  
23 motion here on videotape, you know, the Court is  
24 not going to be responding, obviously, at this

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0023

1 point.

2 MR. HEMMENDINGER: Okay. I have one  
3 other question for you. One second.

4 MR. MARTIN: I just am going to let  
5 you know, I'm going to start the examination of  
6 this witness, and I expect to be able to take a  
7 short break during the middle of that  
8 examination, and come back and complete it.  
9 Okay? Is that all right with you, Eric?

10 MR. HEMMENDINGER: Sure.

11 (Following on video record):

12 VIDEOGRAPHER: Going back on the  
13 record at approximately 10:49 a.m.

14 MR. HEMMENDINGER: I have no further  
15 questions of the -- the witness.

16 CROSS-EXAMINATION

17 BY MR. MARTIN:

18 Q. Good morning, Mr. Lynch. My name is Jeff  
19 Martin. I believe you may recall that I took  
20 your deposition about a little more than three  
21 years ago.

22 A. Yes.

23 Q. March 15, 2005.

24 A. Good morning.

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0024

1 Q. Did you have an opportunity to review that  
2 before your testimony here today?

3 A. Yes.

4 Q. And when was it that you reviewed your  
5 deposition?

6 A. Yesterday.

7 Q. Did -- did you do anything else to prepare  
8 for today's deposition, or trial testimony,  
9 rather?

10 A. I met with the -- the lawyer.

11 Q. You met with the lawyer?

12 A. Last week. Phone conversation. Phone  
13 conversation with the --

14 Q. Okay.

15 A. -- legal counsel.

16 Q. Now, do you recall that I -- that you  
17 attended each of the depositions of my clients,  
18 the plaintiffs in this matter?

19 A. Yes.

20 Q. And do you recall that they all -- they  
21 each denied that they were involved in the hiring  
22 process of catchers?

23 A. Yes.

24 Q. All right. Let me ask you, at the time of



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1 your deposition, you indicated that the hiring  
2 capabilities and responsibilities of the crew  
3 leaders was, and quote, from page 49, "Just part  
4 of their job description." Do you recall having  
5 said that?

6 A. Yes.

7 Q. All right. What was it that you were  
8 referring to, in terms of their job description?  
9 Do you recall specifically?

10 A. No.

11 Q. All right. Well, let me show you what's  
12 been marked as Plaintiff's Exhibit Number 3.  
13 And -- I'm sorry. Make that -- yeah.  
14 Plaintiff's Exhibit 3 is entitled "Mountaire live  
15 haul guidelines." And this was used during the  
16 deposition of Mr. Garrison. Will you take a  
17 moment and look at that.

18 A. Okay.

19 Q. Are you familiar with that document?

20 A. Yes.

21 Q. On section 2 on the first page of that  
22 document, sets forth crew leader's general  
23 duties.

24 A. Okay.

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0026

1 Q. Do you see that?

2 A. Yes.

3 Q. Can you tell the jury or show the jury  
4 where it is that the hiring responsibilities  
5 are -- are shown as one of the crew leader's  
6 general duties?

7 A. No. It doesn't state that. These --

8 Q. Okay.

9 A. It doesn't state that.

10 Q. It doesn't state it on there?

11 A. No.

12 Q. Okay. Let me show you another document  
13 that's been marked as Plaintiff's Exhibit Number  
14 4. And is captioned "Mountaire Farms of Delmarva  
15 position consent summary, evaluation request form  
16 for exempt positions."

17 And this has to do specifically with  
18 Roy Walters.

19 A. Okay.

20 Q. Are you familiar with this document, sir?

21 A. Yes.

22 Q. Okay. Can you show the jury where it is  
23 on this document that the hiring responsibilities  
24 of a crew leader are set forth.

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Douglas Lynch

0027

1           A. Well, basically under position purposes,  
2           to maintain a catching crew of seven catchers.  
3           That's where it would be included.  
4           Q. All right. That term "maintain a catching  
5           crew"?  
6           A. Yes.  
7           Q. All right. Well, let's look specifically  
8           on the third page of that -- that document.  
9           Might be the fourth page. I think it is the  
10          fourth page. Where it says, decision-making  
11          authority. And I apologize, it looks like that  
12          was --  
13          A. Yeah.  
14          Q. -- stapled at both ends.  
15          A. I got it. Yeah. I got it. Fourth page?  
16          Q. Okay. Well, on the bottom it says D00352.  
17          A. I don't see it yet. What page are you on?  
18          One, two --  
19          Q. It's, I believe, the fourth page in  
20          that -- in that document. And on the bottom it's  
21          marked D00352. Do you have that --  
22          A. Oh, okay.  
23          Q. -- in front of you?  
24          A. 352?

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Douglas Lynch

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1 Q. Yes, sir.

2 A. Yes.

3 Q. All right. If you look in the middle of  
4 that page 352, it says "decision-making  
5 authority." Do you see that?

6 A. Yes.

7 Q. And then below that, it has decisions  
8 made, and it refers to reprimands.

9 A. Okay.

10 Q. Okay? And that shows, in fact, that crew  
11 leaders are able to make reprimands of their  
12 catchers if they step out of line. Is that fair  
13 to say?

14 A. Yes.

15 Q. On the right side, it says "decisions  
16 referred or governed." And -- well, let's look  
17 at the language right above that, to make sure we  
18 understand what that means. It says, "Decisions  
19 which you refer to others or are governed by  
20 objectives, policies, or procedures." Do you see  
21 that?

22 A. Uh-huh.

23 Q. Yes?

24 A. Yes.

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Douglas Lynch

0029

1 Q. Okay. And that says hiring or  
2 terminations, correct?

3 A. Yes.

4 Q. All right. Are you aware of any policies,  
5 I'm sorry, or any type of position descriptions  
6 that were in effect before the initiation of this  
7 litigation, back in 2004, that set forth that --  
8 that the crew leaders had responsibilities to  
9 hire their -- their crew?

10 A. Not in the writing, but that's always been  
11 the -- the case.

12 Q. All right. Not in writing. And let's ask  
13 also about terminations. Is there anything in  
14 writing that gives the crew leaders the authority  
15 to terminate their -- any of their crew members?

16 A. Not that I'm aware of, but that's --  
17 that's the case.

18 Q. All right. Let me turn your attention to  
19 another issue.

20 A. Uh-huh.

21 Q. And that is, are you aware that there was  
22 a -- an audit performed by the U.S. Department of  
23 Labor back in the year 2000, with regard to the  
24 operations of Mountaire Farms, which includes

Davis, et al. v. Mountaire Farms, Inc., et al.  
Douglas Lynch

0030

1 North Carolina, as well as Delaware?

2 MR. HEMMENDINGER: Objection. You  
3 can go on.

4 A. Yes. I believe there was a DOL audit in  
5 North Carolina.

6 Q. Do you recall that Mountaire did what's  
7 called an audit review, dated March 21 of 2001?

8 MR. MARTIN: Objection. You can go  
9 on.

10 A. I'm not sure I'm aware of that.

11 Q. All right. Well, let me provide to you a  
12 document that has been pre-marked as  
13 plaintiff's -- I believe that's Plaintiff's  
14 Exhibit 2. Will you take a moment to look at  
15 that, please.

16 A. Okay. I'm not familiar with that  
17 document. I haven't seen it before.

18 Q. There is a statement on the first page --

19 A. Okay.

20 Q. -- right in the center of the first page  
21 it says, "Crew leaders should also be paid OT,  
22 because they are not salaried."

23 MR. HEMMENDINGER: Objection.

24 Q. Are you familiar with that finding by

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Douglas Lynch

0031

1 Mountaire back in 2001?

2 A. No, I wasn't.

3 MR. HEMMENDINGER: Objection.

4 Q. You're not aware of that?

5 A. No.

6 MR. HEMMENDINGER: Counselor, can we  
7 just take turns so I can get my objections on the  
8 record.

9 MR. MARTIN: Certainly.

10 MR. HEMMENDINGER: Yeah. I'm going  
11 to object to examining on this one. We'll --

12 MR. MARTIN: All right. Let's go  
13 off the record, please.

14 VIDEOGRAPHER: Going off the record  
15 at approximately 10:57 a.m.

16 (Following off the video record):

17 MR. MARTIN: I thought what we were  
18 doing is avoiding speaking objections other than  
19 just the phrase "objection," and I would  
20 appreciate if we would do that.

21 MR. HEMMENDINGER: Well, I didn't  
22 make a speaking objection, but I certainly agree  
23 with that. Just give me a chance to get my oar  
24 in the water before you continue the question.

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0032

1 MR. MARTIN: Well, certainly, I will  
2 not -- I certainly didn't mean to cut you off.  
3 But I would appreciate if we would just, if  
4 there's an objection, just state the term  
5 "objection," and we can deal with that at the  
6 appropriate time.

7 MR. HEMMENDINGER: Well, that's what  
8 I've been doing, and I'll continue to do that.

9 MR. MARTIN: Okay. While we're off,  
10 I'm going to take a few moments now. It may take  
11 me 10 or 15 minutes to complete this analysis.  
12 Is there any way we can use this room?

13 MR. HEMMENDINGER: Sure.

14 MR. MARTIN: I would appreciate  
15 that. Thank you.

16 (Brief recess held)

17 VIDEOGRAPHER: Going back on the  
18 record at approximately 11:20 a.m.

19 BY MR. MARTIN:

20 Q. Mr. Lynch, are you aware that this  
21 litigation involves the issue of overtime that is  
22 being sought by the crew leaders?

23 A. Yes.

24 Q. And you're aware that the crew leaders



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0033

1 spend a considerable amount of time, not just on  
2 the farm, but also in the transportation of the  
3 crew; is that right?

4 A. Not currently.

5 Q. Not currently? Well, this goes back seven  
6 years, back to 2001, to -- let's look at from  
7 2001 on. Your testimony was, part of the  
8 responsibilities of the crew leader was to take  
9 them to the farm, meaning the catchers, correct?

10 A. Yes.

11 Q. And is it also the case that their -- part  
12 of their responsibility is to take them from the  
13 farm back home?

14 A. Yes.

15 Q. And we're talking about the crew leader  
16 going to each crew leader's -- I'm sorry, each  
17 catcher's home, picking him up, and then dropping  
18 him off at the catcher's home, correct?

19 A. Yes.

20 Q. Okay. Are you aware of whether at any  
21 time Mountaire gave overtime pay to the crew  
22 leaders for their hours in excess of 40 per week?

23 A. No, I'm not.

24 Q. No, you're not, meaning --

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1 A. Not aware of ever paying any overtime.

2 Q. Okay. To the best of your knowledge,  
3 then, you're not aware that they paid -- that any  
4 overtime has been paid?

5 A. No.

6 Q. Okay. Are you aware, or let me ask you  
7 this: Do you agree with Phil Owens, who is your  
8 human resources --

9 A. Manager.

10 Q. -- manager or director?

11 A. Director, manager, yes. Director.

12 Q. Okay. And you know he's been involved in  
13 this case, through at least his deposition,  
14 correct?

15 A. Yes.

16 Q. Do you agree with his statement that crew  
17 leaders were considered non-exempt before being  
18 salaried in June of 2002?

19 MR. HEMMENDINGER: Objection. Go  
20 ahead.

21 A. Am I aware -- no. I'm not aware of that  
22 statement.

23 Q. Well, are you aware that, or did you  
24 consider the crew leaders to be non-exempt,

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Douglas Lynch

0035

1 before June of 2002?

2 A. To be honest, I wasn't sure what their  
3 status was.

4 Q. Okay. And but you know that if they were  
5 non-exempt, they would be entitled to overtime,  
6 correct?

7 A. I do know that, yes.

8 Q. Okay. But at this point right now you're  
9 saying you're not sure what their status was  
10 before 2002?

11 A. No. No.

12 Q. How about their status after 2002?

13 MR. HEMMENDINGER: Objection.

14 A. Yes. They are currently salaried  
15 employees.

16 Q. Okay. They're salaried employees, but  
17 does that make them exempt, to the best of your  
18 knowledge?

19 A. Yes.

20 Q. Okay. Now, you did, you testified that  
21 you did a job analysis that you testified to, and  
22 you put into evidence, as -- let me find the  
23 exhibit number, so you can put it back in front  
24 of you. It's Defendant's Exhibit Number 29.

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1 Will you take a moment and refer to  
2 that, please. And I believe that you said that  
3 you helped create this; is that right?

4 A. Yes.

5 Q. And you helped create this analysis, along  
6 with your assistant live haul manager Dave Nuse,  
7 correct?

8 A. Yes.

9 Q. All right. And the date shown on this  
10 document is March 10, 2004. Correct?

11 A. Yes.

12 Q. And do you agree that this was a couple  
13 weeks after Mountaire got notice of a claim by  
14 the crew leaders that they are seeking overtime?

15 A. I'm not sure on that.

16 Q. You're not -- you're not sure when this --  
17 this occurred?

18 A. In -- yes. In reference to the other  
19 date. I'm not sure.

20 Q. Okay. Well, what was it that prompted  
21 this crew leader job analysis, as best you can  
22 recall?

23 A. I don't recall.

24 Q. You think it may have just been done just

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0037

1 to -- to have it on the records at Mountaire?  
2 A. Perhaps.  
3 Q. You don't think it had anything to do with  
4 the overtime claim that was being made by the  
5 crew leaders?  
6 A. It could have.  
7 Q. It could have?  
8 A. It could have.  
9 Q. Okay. But you don't recall --  
10 A. But I'm not --  
11 Q. -- specifically --  
12 A. No. I don't recall specifically, no.  
13 Q. All right. Now, given that you did this  
14 analysis on or about March 10, 2004 --  
15 A. Uh-huh.  
16 Q. -- is it fair to say that you did not  
17 involve any of the crew leaders in this job  
18 analysis?  
19 A. Not that I recall.  
20 Q. Wouldn't the crew leaders know even better  
21 than the assistant and live haul managers as to  
22 what their various jobs entitle -- involve?  
23 A. I wouldn't say they know any better, but  
24 they should know as much.

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1 Q. Oh, you don't think they know any better  
2 than the managers what they do day in and day  
3 out?

4 A. Not more than the assistant live haul  
5 manager, who's out there with them every day.

6 Q. Okay. But you found -- you felt no reason  
7 to seek any information from any of the crew  
8 leaders with regard to this so-called job  
9 analysis?

10 A. No.

11 Q. Okay. Now, we've talked a little bit  
12 about the HR role, human resources, and you  
13 indicated that, a few moments ago, that Mr. Phil  
14 Owen is your HR manager or director, correct?

15 A. Director. Director.

16 Q. Okay. And how long has Mr. Owen been  
17 serving Mountaire Selbyville in that capacity?

18 A. I'm not sure. More than five years. I'm  
19 not sure when he was hired exactly.

20 Q. If I were to tell you that his testimony  
21 in his deposition was that he was hired somewhere  
22 around December of 2003, would that refresh your  
23 recollection?

24 A. (Witness shakes head). No. I mean I'll

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0039

1 take your word for it. I'm just not sure when he  
2 was hired. I said more than five years, so I  
3 guess about 2003.

4 Q. Now, you talked a little bit about the HR  
5 function, and I keep saying HR. I should  
6 probably for the jury's benefit, just continue to  
7 say human resources. But their function, in  
8 terms of catchers, hiring and et cetera. They  
9 play a pivotal role in that, do they not?

10 A. Just in the -- in the sign-up procedure.  
11 Not in the recruiting.

12 Q. Okay. They actually help do the  
13 screening, where they check identifications and  
14 then do tuberculosis tests?

15 A. Yes.

16 Q. Okay. In the screening that they do, do  
17 they also check immigration status?

18 A. Yes.

19 Q. Well, you say that a little hesitantly.  
20 Do you know for sure?

21 A. Well, I believe they do.

22 Q. You don't know for sure?

23 A. I don't know for sure.

24 Q. Okay. Has -- has Mountaire had problems

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Douglas Lynch

0040

1 with illegal aliens working for -- as catchers  
2 for the company?

3 MR. HEMMENDINGER: Objection.

4 A. I heard there might have been some issues.

5 Q. There may have been some issues?

6 A. Yes.

7 Q. Okay. Now, further, with human resources,  
8 do you recall testifying in your deposition about  
9 three years ago that human resources is the one  
10 that actually makes the hiring decision for the  
11 catchers?

12 A. No. I don't recall saying that.

13 Q. All right. Well, let me refer you now to  
14 page 54 of your deposition. Okay. And  
15 unfortunately -- well, I may have an extra copy  
16 here. If you take a look at page 54 of your  
17 deposition.

18 Why don't you take a moment and  
19 review that, and then respond to my question as  
20 to whether human resources does -- makes the  
21 hiring decision.

22 A. Basically, I said, "It happens in HR, I  
23 guess."

24 Q. And the question was, "Who makes the



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1 hiring decision?"

2 And your response was, "It happens

3 in HR, I guess."

4 A. Yes.

5 Q. And question, "I'm sorry?"

6 And answer was, "HR."

7 "Question, "HR?"

8 A. Uh-huh.

9 Q. Answer, "Human resources."

10 A. Okay.

11 Q. Okay? Does that refresh your recollection  
12 now?

13 A. Yes.

14 Q. Okay. Let me ask you, also, about human  
15 resources' role with regard to discipline of the  
16 crew. I believe it was your testimony in  
17 response, in your direct examination, that the  
18 crew leaders could pretty much do whatever they  
19 needed to do, up through -- up through  
20 termination. Was that -- is that fair to say?

21 A. Yes.

22 Q. And you did not reference the role of  
23 human resources with regard to those decisions,  
24 especially termination decisions, did you?

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Douglas Lynch

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1 A. No.

2 Q. But at the time of your deposition, when I  
3 asked you about that, you weren't sure, and you  
4 said, "They possibly could be involved in those  
5 decisions." Is that -- is that fair to say?

6 A. Yes.

7 Q. Okay. So, that helps refresh your  
8 recollection that HR may very well be involved in  
9 the decision, and that the decisions may not be  
10 the decisions -- final decisions, at least, of  
11 the crew leaders?

12 MR. HEMMENDINGER: Objection. That  
13 wasn't a question, was it?

14 Q. All right. Let me move on here for a  
15 moment. And let me ask you -- let's go off the  
16 record for just a moment, please.

17 VIDEOGRAPHER: Going off the record  
18 at approximately 11:32 a.m.

19 (Brief discussion off the record)

20 VIDEOGRAPHER: Going back on the  
21 record at approximately 11:35 a.m.

22 BY MR. MARTIN:

23 Q. Mr. Lynch, are you aware that your  
24 company, by way of an audit review in March 21 --

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Douglas Lynch

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1 dated March 21, 2001, found, and I quote, "Crew  
2 leaders should also be paid OT, because they are  
3 not salaried"?

4 MR. HEMMENDINGER: Objection.

5 Q. Are you aware of that?

6 A. I just became aware of that, today, when  
7 you showed me the document.

8 Q. All right. And you have no reason to  
9 dispute that?

10 MR. HEMMENDINGER: Objection.

11 A. Prior to that date?

12 Q. Yeah. I -- my question to you is, do you  
13 have any reason to dispute that determination  
14 made by your company in 2001?

15 A. No.

16 Q. Okay.

17 MR. MARTIN: Thank you, nothing  
18 further.

19 MR. HEMMENDINGER: I have some  
20 redirect. Let me just go off the record for a  
21 second.

22 VIDEOGRAPHER: Going off the record  
23 at approximately 11:36 a.m.

24 (Brief discussion off the record)

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1 VIDEOPHOTOGRAPHER: Going back on the  
2 record at approximately 11:39 a.m.

3 REDIRECT EXAMINATION

4 BY MR. HEMMENDINGER:

5 Q. Mr. Lynch, Mr. Martin asked you a series  
6 of questions, or asked you a question that --  
7 concerning a point in your deposition testimony  
8 where you gave the answer, "It happens in HR, I  
9 guess." Do you recall that?

10 A. Yes.

11 Q. I'd like you to look at page 53 of your  
12 deposition. And I'd like to enter into the  
13 record the testimony that you gave that led up to  
14 that answer that I just referred to, starting at  
15 the top. And what I thought I'd do is I'll read  
16 the questions and you tell me what your answer  
17 was at the time.

18 So, the question was, by Mr. Martin,  
19 "All right. You have testified that the crew  
20 leader has the responsibilities of going and  
21 recruiting a new or prospective person, correct?"

22 A. "Yes."

23 Q. "And then I think I understood your  
24 testimony that person is referred to the plant or

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0045

1 the facility?"

2 A. "Yes."

3 Q. "And then there is a process of drug  
4 testing?"

5 A. "Yes."

6 Q. "What other types of screening methods are  
7 there?"

8 A. "A TB testing, drug testing, and I think  
9 there is a pretty extensive medical questionnaire  
10 they have to fill out and answer questions.  
11 Besides that, unless you're an immigrant, then  
12 there's just the I-9 testing with the green  
13 cards, or whatever."

14 Q. "All right. What do you mean by I-9  
15 testing?"

16 A. "Green cards, identification, valid  
17 identification to be in the country."

18 Q. "Producing the I-9?"

19 A. "Yes."

20 Q. "Okay. Who is it in the plant that  
21 coordinates the testing that you have just  
22 described, the medical testing, the TB testing  
23 and the drug testing?"

24 A. "The medical facility."

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1 Q. "Okay. Let's assume this person passes  
2 each of those type forms of screening."

3 A. "Yes."

4 Q. "What happens to the person after that --  
5 at that point?"

6 A. "They generally get hired."

7 Q. "All right. And who makes that hiring  
8 decision?"

9 A. "It happens in HR, I guess."

10 Q. And then continue. "I'm sorry?"

11 A. "HR."

12 Q. Question, "HR?"

13 A. "Human resources."

14 Q. Okay. "Is the crew leader involved in  
15 that?"

16 A. "Well, he made the job offer. The job  
17 bid. That's just to the extent that he is -- you  
18 know, he's telling the medical facility and HR  
19 that he's making a job offer to this employee,  
20 and providing they pass all the testing, he wants  
21 them to be hired."

22 Q. "And the job offer -- so in other words,  
23 if the person was successful in the screenings  
24 that you have indicated, that person would

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Douglas Lynch

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1 automatically have the position?"

2 A. "Yes."

3 Q. Now, I want to ask you about your  
4 testimony on page 69, that Mr. Martin referred  
5 to.

6 A. Okay.

7 Q. Mr. Martin asked you the question, "Does  
8 human resources" -- this is in the deposition he  
9 asked you -- "does human resources have any  
10 authority to take any type of disciplinary action  
11 against the person who was written up?" What was  
12 your answer?

13 A. "Do they have any authority?"

14 Q. "Yes."

15 A. "They possibly could, again, through Al  
16 Z."

17 Q. Now, turning away from the deposition for  
18 a second, normally who initiates disciplinary  
19 action against a member of a chicken catching  
20 crew?

21 A. The supervisor.

22 Q. And why would it be the supervisor who  
23 does that?

24 A. Because he's the one that's in contact

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1 with the individual each day, and he knows the  
2 issues. He's the crew leader.

3 MR. HEMMENDINGER: I have no other  
4 questions.

5 MR. MARTIN: I have nothing further.

6 VIDEOGRAPHER: Going off the record  
7 at approximately 11:43 a.m.

8 (Deposition concluded at 11:43 a.m.)  
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REPLACE THIS PAGE  
WITH THE ERRATA SHEET  
AFTER IT HAS BEEN  
COMPLETED AND SIGNED  
BY THE DEPONENT

Davis, et al. v. Mountaire Farms, Inc., et al.  
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1 State of Delaware )  
 )  
2 New Castle County )  
3

4 CERTIFICATE OF REPORTER

5 I, Julianne LaBadia, Registered Diplomate  
Reporter and Notary Public, do hereby certify that  
6 there came before me on July 23, 2008, the deponent  
herein, DOUGLAS LYNCH who was duly sworn by me and  
7 thereafter examined by counsel for the respective  
parties; that the questions asked of said deponent  
8 and the answers given were taken down by me in  
Stenotype notes and thereafter transcribed by use of  
9 computer-aided transcription and computer printer  
under my direction.

10  
11 I further certify that the foregoing is a true  
and correct transcript of the testimony given at  
said examination of said witness.

12  
13 I further certify that reading and signing of  
the deposition was required by the deponent and  
counsel.

14  
15 I further certify that I am not counsel,  
attorney, or relative of either party, or other wise  
interested in the event of this suit.

16  
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18  
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20 \_\_\_\_\_  
21 Julianne LaBadia, RDR, CRR  
22 Certification No. 267-RPR  
23 (Expires January 31, 2011)  
24